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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD.

REGISTRATION O.A. NO. 41 OF 1987

Puranmasi Ram Applicant

versus

The Union of India & others Respondents.

Hon'ble D.S. Misra- AM
Hon'ble G.S. Sharma- JM

This petition under section 19 of the Administrative Tribunals Act no.XIII of 1985 for quashing the order dated 9.1.1987 passed by the General Manager(P) Diesel Locomotive Works, Varanasi reducing the applicant from the post of Assistant Shop Superintendent(Electrical) to the post of Chargeman 'A' and for his re-instatement with consequential benefits. The applicant has treated this order of reversion as an order of punishment but without exhausting the departmental remedy, he filed this petition and at the time of hearing for admission on the first date, it was submitted on his behalf that no appeal lies against the impugned order of reduction in rank. Accordingly the notices were issued to the respondents to show cause as to why the petition be not admitted. The respondents have filed their reply in which they have taken a preliminary objection that this petition is not maintainable in view of the provisions of section 20 of Act no.XIII of 1985. The applicant had reiterated in his rejoinder that the petition is maintainable as the impugned order is not appealable.

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2. The learned counsel for the parties were heard on the maintainability of this petition as well as on merits. Clause (b) of Rule 18(v) of Railway Servants (Discipline & Appeal Rules), 1968 provides that an appeal lies against an order reverting a Railway Servant while officiating in a higher service, grade or post to a lower service, grade or post otherwise than as a penalty. Nothing to the contrary has been shown on behalf of the applicant and mere contention that the impugned order is not appealable is devoid of any force. Section 20(1) of Act no. XIII of 1985 provides that a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. No extraordinary circumstances has been brought to our notice to make exception to the applicability of this provision to the instant case. We are, therefore, of the view that this petition is not maintainable in the absence of the applicant's exhausting departmental remedies and the petition has to fail on this ground alone, and it is not necessary to enter into the merits of this case.

3. The petition is accordingly dismissed without any order as to costs.

Shahid
MEMBER (J)

Bhaw
MEMBER (A)

Dt/17-10-1988/
Shahid.